



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,524	03/30/2001	Gregory Kent Plunkett	21426-013	8698

30623 7590 03/24/2006

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

EXAMINER

SMITH, TRACI L

ART UNIT PAPER NUMBER

3629

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/823,524

Applicant(s)

PLUNKETT ET AL.

Examiner

Traci L. Smith

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-10 and 12-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-10 and 12-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to papers filed on December 27, 2005.

No claims have been amended.

Claims 3-10 and 12-37 are pending.

Claims 3-10 and 12-37 are rejected.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 3-10, 12-33 are rejected under 35 U.S.C. 102(b) as being anticipated by www.erieri.com. (any linkage on (2000): *March 02, 2000).

3. As to claims 3, 14 and 27 a system and method for selecting job categories and providing compensation information over a network.(Pgs. 53) and retrieving requested information from database(Pg. 12 ¶ 14) then transmitting comparison information to user(Pg. 13 ¶ 3).

4. As to claims 4-8, 15-17, 19-21 and 29-31 prompts including postal code, cities, states and job categories. (Pg. 53 Ref. A-E)

5. As to claims 9, 22 and 28 compensation information includes salary. (Pg 5 l. 5)

6. As to claims 10, 23 and 29 salaries are percentiles associated with jobs selected.(Pg. 4 l. 21-22 & Ref A₁ & Pg 45 L. 3-5)

7. As to claim 12 a graphical display of compensation information.(Pg 4 Ref A)

8. As to claim 18 database of compensation information associated with job description.(Pg. 24 L. 25-27).
9. As to claim 24 allows user selects multiple job descriptions for comparison. (Pg. 4 L. 33-36)
10. As to claim 25, comparisons are of different geographic locations for the same job class and averages.(Pg. 4 l 16-21 & l. 23)
11. As to claim 26 a computer readable medium to be read by a processor(Pg. Pg. 24 L. 18-20)
12. As to claim 32 user selection of comparison information associated with selected jobs.(Pg. 12 ¶ 4 & Pg 13 ¶ 3)
13. As to claim 33 user selection of comparison information from various different options such as geographic location, cost of living, compensation, job industry. (Pg. 9-10).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

Art Unit: 3629

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

16. Claims 13 and 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over www.erieri.com. (any linkage on (2000): *March 02, 2000) as applied to claims 3-10, 12-33 above, hereinafter referred to as erieri and further in view of www.careerbuilder.com retrieved June 20, 2005, anylinkage February 29, 2000; hereinafter referred to as careerbuilder.

17. As to claims 13 and 34-37 erieri teaches a system and method for providing salary compensation information based on user input requests. However, erieri fails to teach providing links to job opportunity information. Career teaches a salary compensation system and method (pg. 6) which provides a link (Pg. 6 Ref A) that provides the user with job opportunity information. (Pg. 10-11). It would have been obvious to one skilled in the art at the time of invention to combine the teaches of careerbuilder with erieri so as to allow a user that is considering a career move the opportunity to see if jobs are available in a desired area once a salary has been determined. Although erieri fails to teach the links being displayed "adjacent" to certain data these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps would be performed regardless of the location of the links. The location is merely a design choice and is not patentably distinct. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *in re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 44(Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ 2d 1031(Fed. Cir. 1994).

Response to Arguments

18. Applicant's arguments filed December 27, 2005 have been fully considered but they are not persuasive.

19. As to applicants arguments regarding the rejections under 35 USC 102 and ERI not teaching prompting the user to select a job for comparison the examiner notes applicant does not claim a specific comparison against an particular criteria. Therefore, by the user selecting a job and receiving information they compare that to what they are making and/or want to make that meets the limitations of a job comparison.

20. As to applicant arguments regarding the comparisons being done for Executive positions not for the user, the examiner notes that an executive qualifies as a user as applicant so not identify a specific type of user.

21. As to applicants arguments that ERI fails to identify selecting information regarding a job opportunity in claims 14 and 27. The examiner notes that when read broadly the art teaches a job as a listing of many positions that fall into that category. Therefore when a user selects a job listing and is giving a list of possible positions that fall into the job category that can be read to be included as a job opportunity. A user who works or falls into a job category could look to at other job opportunities equivalent to theirs to make a salary comparison.

22. The applicant further argues that the reference is not being taught over a network. The examiner notes that all pages of a reference were retrieved from an internet webpage, including the pages in which the user selects the job category, this inherently establishes that the art is being taught over a network.

23. Applicant states Careerbuilder.com fails to overcome the deficiencies of ERI. However, as examiner disagrees with applicants arguments regarding ERI the rejections under 35 USC 103 stand as applicant does not dispute the combination or motivation of the cited references.

Conclusion

24. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

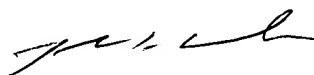
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traci L. Smith whose telephone number is 571-272-6809. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3629

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TLS



JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600